

First Supplement to Memorandum 2009-34

**Statutes Made Obsolete by Trial Court Restructuring: Part 5
(Staff Draft Tentative Recommendation)**

This memorandum discusses comments received from the marshal of Inyo County, Floyd Justin Barton. Marshal Barton informed the staff by phone of his concern with proposed amendments to Section 13510 in the staff draft tentative recommendation.

Section 13510 relates to standards and training for local law enforcement officers, including “marshals or deputy marshals of a municipal court.” The proposed amendments would replace “marshals or deputy marshals of a municipal court” with “marshals or deputy marshals *who serve a superior court.*” (Emphasis added.) The Commission previously approved those amendments for inclusion in a staff draft tentative recommendation. See Minutes (April 2009), pp. 4, 7.

Marshal Barton is concerned that the new language may be ambiguous. He is concerned that it could be interpreted to exclude a marshal who is no longer primarily responsible for court security (provided instead by the sheriff), but who is nevertheless a peace officer under Penal Code Section 830.1.

To avoid confusion over whether Section 13510 would remain applicable to a marshal who is not primarily responsible for court security, Marshal Barton recommends tracking language in Section 830.1(a). Under that provision, a “marshal or deputy marshal of a superior court or county” is a peace officer.

That language in Section 830.1 was enacted in 2003 on Commission recommendation. Previously, the section referred to a “marshal or deputy marshal of a *superior or county court.*” See 2002 Cal. Stat. ch. 56, § 7 (emphasis added). The italicized language was replaced with “superior court or county” to make clear “that a marshal or deputy marshal may be employed by a superior court or by a county.” See Section 830.1 Comment.

To make clear that the standards established pursuant to Section 13510 relate to all marshals, the staff agrees that the proposed amendment to that section

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should track the relevant language of Section 830.1. Using such language would make clear that Section 13510 would remain applicable to a marshal who is a peace officer under Section 830.1, regardless of whether the marshal is primarily responsible for court security.

Accordingly, the staff recommends that the tentative recommendation include the following amendments to Section 13510:

Penal Code § 13510 (amended). Rules establishing minimum standards

SEC. ___. Section 13510 of the Penal Code is amended to read:

13510. (a) For the purpose of raising the level of competence of local law enforcement officers, the commission shall adopt, and may from time to time amend, rules establishing minimum standards relating to physical, mental, and moral fitness that shall govern the recruitment of any city police officers, peace officer members of a county sheriff's office, marshals or deputy marshals of a ~~municipal~~ superior court or county, peace officer members of a county coroner's office notwithstanding Section 13526, reserve officers, as defined in subdivision (a) of Section 830.6, police officers of a district authorized by statute to maintain a police department, peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney's office, as defined in Section 830.1, who conduct criminal investigations, peace officer members of a district, safety police officers and park rangers of the County of Los Angeles, as defined in subdivisions (a) and (b) of Section 830.31, or housing authority police departments.

The commission also shall adopt, and may from time to time amend, rules establishing minimum standards for training of city police officers, peace officer members of county sheriff's offices, marshals or deputy marshals of a ~~municipal~~ superior court or county, peace officer members of a county coroner's office notwithstanding Section 13526, reserve officers, as defined in subdivision (a) of Section 830.6, police officers of a district authorized by statute to maintain a police department, peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney's office, as defined in Section 830.1, who conduct criminal investigations, peace officer members of a district, safety police officers and park rangers of the County of Los Angeles, as defined in subdivisions (a) and (b) of Section 830.31, and housing authority police departments.

These rules shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter and shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The commission shall conduct research concerning job-related educational standards and job-related selection standards to include vision, hearing, physical ability, and emotional stability.

Job-related standards that are supported by this research shall be adopted by the commission prior to January 1, 1985, and shall apply to those peace officer classes identified in subdivision (a). The commission shall consult with local entities during the conducting of related research into job-related selection standards.

(c) For the purpose of raising the level of competence of local public safety dispatchers, the commission shall adopt, and may from time to time amend, rules establishing minimum standards relating to the recruitment and training of local public safety dispatchers having a primary responsibility for providing dispatching services for local law enforcement agencies described in subdivision (a), which standards shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter.

These standards also shall apply to consolidated dispatch centers operated by an independent public joint powers agency established pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code when providing dispatch services to the law enforcement personnel listed in subdivision (a).

Those rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. As used in this section, "primary responsibility" refers to the performance of law enforcement dispatching duties for a minimum of 50 percent of the time worked within a pay period.

(d) Nothing in this section shall prohibit a local agency from establishing selection and training standards that exceed the minimum standards established by the commission.

Comment. Section 13510 is amended to reflect unification of the municipal and superior courts pursuant to former Section 5(e) of Article VI of the California Constitution.

Respectfully submitted,

Catherine Bidart
Staff Counsel